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SECRETARY OF STATE

BEFORE THE TENNESSEE WATER QUALITY CONTROL BOARD

IN THE MATTER OF:)	DIVISION OF WATER
)	POLLUTION CONTROL
)	
JOHN TRICE)	CASE NO. WPC07-0161
)	
)	
RESPONDENT)	DOCKET NO. 04.30-097309A

AGREED ORDER

This matter came to be heard before the Tennessee Water Quality Control Board upon the Director's Order and Assessment of Civil Penalty, and the Respondent's Petition to Appeal. The Board, a quorum present, hereby adopts the following Findings of Fact, Conclusions of Law, Order and Assessments to which the parties have agreed, as evidenced by the signatures below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The facts and violations set out in Paragraphs I. through XVIII. of Director's Order number WPC07-0161; issued July 30, 2007; are agreed to and admitted by Respondent. These Sections are adopted by the Board and incorporated herein by reference.

ORDER

WHEREFORE, PREMISES CONSIDERED, the Board hereby ORDERS that:

1. The Respondent shall, within THIRTY (30) DAYS of receipt of this Order, submit for division approval, a mitigation plan to provide compensatory mitigation for the 9.6 acres of impacted wetlands located on site. The mitigation plan shall incorporate the wetland delineation information obtained in the October 4, 2006, delineation performed by the Respondent's consultant, Griggs & Maloney, Inc. The mitigation plan shall include, but not be limited to, information on hydrological inputs, depths of excavation, information on specific plantings including species, size, spacing, monitoring protocol and success criteria, long-term protection methodology, and a timetable for the proposed activities. The mitigation plan shall be submitted to the manager of the division's Natural Resources Section (NRS) located at 401 Church Street, L&C Annex 7th Floor, Nashville, Tennessee 37243.
2. The Respondent shall, within SIXTY (60) DAYS of receipt of this Order, complete all activities outlined in the approved mitigation plan, and notify the manager of the division's NRS of completion.
3. The Respondent is hereby assessed a CIVIL PENALTY in the amount of FORTY THOUSAND SIX HUNDRED FIFTY DOLLARS (\$40,650.00).
 - a. The Respondent shall pay EIGHT THOUSAND TWO HUNDRED FIFTY DOLLARS (\$8,250.00) to the division within THIRTY (30) DAYS of receipt of this Order.
 - b. The Respondent shall pay TEN THOUSAND FOUR HUNDRED DOLLARS (\$10,400.00) to the division within THIRTY (30) DAYS of

default, if, and only if, the Respondent fails to comply with Item 1 above in a timely manner.

c. The Respondent shall pay TWENTY TWO THOUSAND DOLLARS (\$22,000.00) to the division within THIRTY (30) DAYS of default, if, and only if, the Respondent fails to comply with Item 2 above in a timely manner.

4. The Respondent shall otherwise conduct business in accordance with the Act and rules promulgated pursuant to the Act.

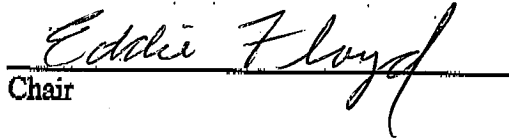
5. In entering into this Agreed Order, the Respondent has knowingly waived his right to a hearing pursuant to T.C.A. §69-3-155 and any appeal therefrom.

REASONS FOR DECISIONS


The Board approves this Agreed Order because it is a fair and reasonable settlement of the matter. The Board also approves of settlements in that they conserve the resources of the Department and the Board.

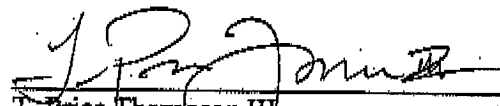
A copy of this Agreed Order shall be served upon the Respondent by certified mail, return receipt requested. This final decision and order shall become effective upon entry.

FOR THE TENNESSEE WATER QUALITY CONTROL BOARD:


Chair

APPROVED FOR ENTRY:


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RIGHTS OF APPEAL

The Respondent is hereby notified and advised of the right to administrative and judicial review of this FINAL DECISION AND ORDER pursuant to the Tennessee

Uniform Administrative Procedures Act, T.C.A. §§ 4-5-316, 4-5-317 and 4-5-322 and the Water Quality Control Act, T.C.A. §§ 69-3-111 and 69-3-115.

T.C.A. § 4-5-316 gives a party the right to submit to the Board a Petition for Stay of Effectiveness of a Final Order within seven (7) days after its entry.

T.C.A. § 4-5-317 gives any party the right to file a Petition for Reconsideration within ten (10) days after the entry of a Final Order, stating specific grounds upon which relief is requested.

T.C.A. § 4-5-322 and 69-3-111 provide the right of judicial review by filing a Petition in the Chancery Court of Davidson County within sixty (60) days of entry of this Order.

Entered in the Office of the Secretary of State, Administrative Procedures Division, this 19th day of February, 2008.


Thomas G. Stovall, Director
Administrative Procedures Division